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June 14, 2018

BY RESS, EMAIL AND COURIER

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

Re: EB-2017-0255 – Union Gas Limited – 2018 Cap-and-Trade Compliance Plan-Public Reply Argument

We are counsel to Union Gas Limited in the above-noted matter. Please find enclosed Union's Public Reply Argument.

The Public Reply Argument will be filed on RESS and a copy served on all parties.

Yours truly,

Original Signed by Myriam Seers

Myriam Seers

MS/lt
Enclosure

cc: Adam Stiers
All Intervenors

EB-2017-0255

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Sched. B);

AND IN THE MATTER OF an Application by Union Gas Limited, pursuant to section 36(1) of the *Ontario Energy Board Act, 1998*, for an order or orders approving rates resulting from the 2018 Cap-and-Trade Compliance Plan.

REPLY ARGUMENT OF UNION GAS LIMITED

(PUBLIC)

A. Overview

1. This is the reply argument of Union Gas Limited ("Union"). It should be read in conjunction with Union's Argument-in-Chief ("AIC"). In summary, Union submits that its application should be approved as set out in its AIC.

2. The *Climate Change Mitigation and Low-Carbon Economy Act, 2016* was passed in May 2016,[1] accompanied by final regulations ("Cap-and-Trade Regulations").[2] Only eight months later, Ontario's Cap-and-Trade program was launched on January 1, 2017. The implementation schedule was more rapid than in any other jurisdiction that has implemented a Cap-and-Trade program, including California and Quebec.[3] Since the Cap-and-Trade program itself was complex and new to Ontario, Union's first priority in developing its 2017 Compliance Plan was to ensure that the program was implemented effectively, efficiently, on time, and in compliance

[1] *Climate Change Mitigation and Low-carbon Economy Act, 2016*, S.O. 2016, ["Climate Change Act"].
[2] Ontario Regulation 144/16, The Cap and Trade Program ["Cap and Trade Regulation"].
[3] EB-2016-0296 Union's Argument-in-Chief, p. 2.

with the regulations and the Regulatory Framework for the Assessment of Costs of Natural Gas Utilities' Cap-and-Trade Activities (the "Framework"). It was critical that Union develop the systems, processes, expertise and governance necessary to ensure compliance. The Ontario Energy Board ("OEB" or "Board") subsequently approved Union's 2017 Customer and Facility-Related Obligation cost consequences and found that Union's administrative costs were consistent with the expectations established in the Framework.[4] In making this determination, the OEB found that Union's 2017 Compliance Plan was based on reasonable option analysis and decision-making, and risk management.[5]

3. Union's 2018 Cap-and-Trade Compliance Plan (the "2018 Compliance Plan" or the "Plan"), filed less than two months after the OEB Decision and Order on Union's 2017 Compliance Plan, is expanded in scope and analysis compared to Union's 2017 Compliance Plan, reflecting: the OEB's Decision and Order on Union's 2017 Compliance Plan (the "Decision");[6] Western Climate Initiative ("WCI") Linkage; consideration of incremental abatement opportunity using the OEB's Marginal Abatement Cost Curve ("MACC") and the Long-Term Carbon Price Forecast ("LTCPF"), respectively issued by the OEB approximately four to five months prior to Union filing its 2018 Compliance Plan; joint development of an Abatement Construct ("AC") and Low Carbon Initiative Fund ("LCIF") with Enbridge Gas Distribution ("EGD"); and, a Renewable Natural Gas ("RNG") procurement and funding proposal and consideration of other new and emerging technologies.[7]

4. Contrary to submissions made by OEB Staff and certain intervenors, there is no basis on which the Board should deny Union recovery of any of the costs consequences associated with its 2018 Compliance Plan. OEB Staff and intervenors make much of the fact that the Plan does not include any incremental greenhouse gas abatement beyond those initiatives undertaken as part of Union's 2015-2020 DSM Plan. Yet, as set out below and in Union's AIC, Union appropriately analyzed whether any incremental abatement would be prudent to pursue, using the Board's tools (the MACC and LTCPF), and concluded that no cost-effective incremental

[4] EB-2016-0296 Decision and Order, pp. 3 & 16.
[5] EB-2016-0296 Decision and Order, p. 6.
[6] EB-2016-0296 Decision and Order.
[7] Exhibit 3, Tab 4.

abatement could be pursued prudently. It would not be appropriate for the Board to penalize Union by disallowing compliance costs, when Union has followed the Board's methodology in assessing incremental abatement opportunities. These arguments are addressed under Issue 1.10 below.

5. OEB Staff and certain intervenors argue that a portion of the administrative costs forecasted in Union's 2018 Compliance Plan should not be deemed reasonable. The arguments raised are largely focused on a perceived duplication of effort between Union and EGD (together the "Utilities"), and the submission that Union's administrative costs should be benchmarked against EGD's. These arguments are without merit. Union and EGD have collaborated in developing and managing their 2018 Compliance Plans to the extent possible, but fully merging or pooling the Utilities' Cap-and-Trade activities would require detailed integration work that would not have been feasible in 2018, and would not have been appropriate given the ongoing MAADs application before the Board. It was not even possible for Union and EGD to share confidential information at the time the forecasts and plans were developed for 2018. Nor is it appropriate to benchmark Union's administrative costs against EGD's, since the Utilities have continued to operate as separate legal entities under different incentive regulation models. These arguments are addressed under Issue 1 below.

6. Certain intervenors also argue that Union's request to recover 2016 administrative costs should be denied on the basis that they fall under the materiality threshold set out in Union's approved 2014-2018 Incentive Regulation Mechanism ("IRM") Plan. Yet, the Board has clearly established such costs as pass-throughs to be allocated and recovered from all customers in the same manner as existing costs. Other intervenors argue that Union's 2016 administrative costs should be benchmarked against those of EGD. These arguments do not consider that leading up to the implementation of Cap-and-Trade in Ontario, Union incurred the costs it deemed necessary as an independent entity to ensure a successful implementation of its Cap-and-Trade program. Further, Union and EGD were two separate legal entities operating under different incentive regulation models at this time, thus the exact same approach to implementation would not have been a realistic expectation. Denying Union's request for recovery of 2016 administrative costs on the basis that they differ from EGD's is not reasonable. These arguments are addressed under Issue 4 below.

7. OEB Staff and certain intervenors support various levels of funding for the LCIF, while others take the position that such funding would be premature at this time. Ratepayer funding for the LCIF would permit the Utilities to drive innovation by advancing greenhouse gas abatement opportunities. While Union will work with whatever budget cap is approved by the Board, it notes that at funding levels lower than the $2.0 million it proposes, Union's ability to invest in projects that could result in abatement in the future will be reduced. The arguments related to the LCIF are addressed under Issues 1.8 and 1.9 below.

8. This reply argument is organized in accordance with the final issues list set out in Schedule A of Procedural Order No. 2.[8]

Issue 1	Cost Consequences
Issue 1.1	Volume Forecasts
Issue 1.2	Emissions Forecasts
Issue 1.3	Carbon Price Forecast
Issue 1.4	Option Analysis and Optimization of Decision Making
Issue 1.6	Proposed Performance Metrics and Cost Information
Issue 1.7	Risk Management Processes and Analysis
Issues 1.8 -1.9	Long-Term Investments and New Business
Issue 1.10	Abatement Activities
Issue 1.10.1	RNG Procurement and Funding Proposal
Issue 2	Monitoring and Reporting
Issue 3	Customer Outreach
Issue 4	Deferral and Variance Accounts
Issue 5	Cost Recovery
Issue 6	Implementation

[8] EB-2017-0255 Procedural Order No. 2 (dated February 7, 2018).

B. Issue 1: Cost Consequences – *The cost consequences of Union's 2018 Compliance Plan are reasonable and appropriate*

9. Union requests that the Board determine that the cost consequences of its 2018 Compliance Plan are just and reasonable, including: $3.7 million in forecasted 2018 administrative costs and up to $2.0 million in LCIF costs to be included in Union's Greenhouse Gas Emissions Impact Deferral Account ("GGEIDA");[9] and $282.8 million in forecasted customer-related and facility-related compliance costs to be included in final 2018 rates.[10]

10. OSEA generally supports Union's 2018 Compliance Plan for Board approval.[11] BOMA supports Union's 2018 administrative cost proposal.[12]

Methodology for disposition of actual costs

11. At issue in this proceeding is the approval of the 2018 forecasted administrative, customer-related and facility-related compliance costs. The reasonability of the actual cost consequences associated with Union's 2018 Compliance Plan will be the subject of final review by the Board as part of a future proceeding (see Issue 4 below) when Union applies to dispose of the resulting balances in the respective deferral accounts, including: 2018 administrative costs and up to $2.0 million in cost consequences associated with the LCIF in Union's GGEIDA (No. 179-152); 2018 customer-related compliance costs in Union's Greenhouse Gas Emissions Compliance Obligation – Customer-Related Deferral Account (No. 179-154); and, 2018 facility-related compliance costs in Union's Greenhouse Gas Emissions Compliance Obligation – Facility-Related Deferral Account (No. 179-155). As noted in Union's AIC, Union submits that it would be inappropriate for the Board to determine that the cost consequences of the 2018 Compliance Plan are just and reasonable, only to then disallow those costs at disposition absent a change in circumstances.

[9] Union accepts the submissions of LPMA (p. 3) and VECC (p. 20) that its administration cost forecast be reduced from $4.0 million to $3.7 million.

[10] Exhibit 7, Tab 1, Schedule 1, p. 1.

[11] OSEA Submission, p. 16.

[12] BOMA Submission, p. 4.

The costs consequences related to Union's administrative costs are reasonable and appropriate

12. As set out in Union's AIC, Union requests an order that the cost consequences associated with the administrative costs set out in its 2018 Compliance Plan are just and reasonable. The actual costs will be subject to final review by the Board in a future proceeding.

13. In this section, Union responds to the main arguments raised by OEB Staff and certain intervenors that a portion of Union's forecast 2018 administrative costs should be disallowed.

14. ***Further integration not appropriate at this time.*** OEB Staff and a number of intervenors submit that the Utilities should have effectively "pooled resources" as part of their 2018 Compliance Plans and achieved greater synergies.[13]

15. It would not have been appropriate or reasonably possible for Union and EGD to effectively "merge" or "pool" their Cap-and-Trade functions for 2018. At the time the forecasts and plans were developed for 2018, the Utilities were not even permitted to share confidential information relating to Cap-and-Trade compliance. Nor would further integration have been feasible even after it became possible to share confidential information, since most of Union's FTEs incremental to Cap-and-Trade are from different functional departments outside the Cap-and-Trade team. Sharing these resources would require detailed integration work, which is not appropriate to conduct pending the outcome of the MAADs application.[14] Notably, nowhere in the submissions made is there any concrete evidence that a particular FTE's function could have been eliminated through greater integration with EGD, or that a particular FTE function in Union's 2018 Compliance Plan was not needed.

16. In any event, these submissions ignore that Union and EGD did in fact achieve synergies by working together in developing certain aspects of their 2017 and 2018 Cap-and-Trade Compliance Plans. For example, these synergies include the development of the AC and the LCIF, the investigation of new and emerging technologies under the LCIF, the assessment of incremental abatement opportunities for inclusion in Compliance Plans, co-funding consulting

[13] OEB Staff Submission, pp. 4 & 9; CCC Submission, p. 6; APPrO Submission, p. 7; SEC Submission, pp. 3-4; LPMA Submission, p. 4; EP Submission, p. 9; VECC Submission, pp. 20-21.

[14] EB-2017-0306/EB-2017-0307 EGD and Union Application for Amalgamation and Rate-Setting Mechanism.

reports and studies, and engaging the MOECC, IESO and GreenON in the advancement of energy conservation programming. While Union expects that it will continue to actively pursue opportunities to increase collaboration and to find efficiencies going forward, it is not appropriate to direct Union and EGD to act as a single legal entity in advance of an OEB Decision and Order on the MAADs application currently before the Board.

17. The submissions of certain intervenors ignore that Union's actual FTE counts have been reduced from 13.5 FTE in 2016, to 11.5 FTE in 2017, to an outlook of 11.25 FTE in 2018. OEB Staff's submission inaccurately alleges that Union's FTE counts have increased year-over-year, due to the incorrect comparison of average incremental FTE counts for 2016 and 2017, and a gross incremental FTE count for 2018.[15] Further, the OEB found the administrative costs associated with Union's 2017 Compliance Plan, based on 11.5 FTE, were consistent with the expectations established in the Framework. [16]

18. ***Consulting costs budgeted are reasonable and appropriate.*** OEB Staff also submit that consulting fees should be reduced.[17] To the extent that the Board places a cap on administrative costs associated with consulting for Union's 2018 Compliance Plan, Union's ability to support government efforts to reduce GHG emissions, as mandated by the Framework, will be limited.[18]

19. OEB Staff's submission ignores the fact that Ontario's Cap-and-Trade landscape continues to evolve and that Union has committed to continue pursuing efficiencies and opportunities to collaborate with EGD. For example, substantial new Federal programming is forecasted to impact the Utilities' Cap-and-Trade programs, including the Pan-Canadian Framework which is composed of the Federal Clean Fuel Standard 2021/2022; Federal Methane Regulations phase-in 2020-2023; and implementation of a Federal Carbon Backstop. Further, Union's OEB-approved GGEIDA accounting order specifically includes administrative costs associated with the impacts of provincial and federal regulations related to GHG requirements

[15] OEB Staff Submission, p. 7.
[16] EB-2016-0296 OEB Decision and Order, p. 16.
[17] OEB Staff Submission, p. 9.
[18] Framework, p. 1.

such as those associated with the Pan-Canadian Framework.[19] Union will require the support of consultants in the preparation for, and the timely implementation of, changes resulting from these programs. Further, the suggestion that Union's consulting budget should be reduced despite the changes to the Cap-and-Trade landscape identified above contradicts the Framework's principle of Flexibility: *"cap and trade strategies are flexible and can adapt to changing market conditions and utility-specific characteristics"*.[20] Union's 2018 Compliance Plan has been designed in a manner to ensure that the flexibility outlined in the Framework is achieved in order to adapt to regulatory and policy changes if and when they arise.[21] Reducing Union's consulting budget will limit its flexibility going forward. For these reasons, it is not reasonable or appropriate to reduce Union's 2018 consulting budget.

20. ***Not appropriate to benchmark against EGD.*** APPrO, EP and LPMA essentially submit that Union's 2018 staffing costs should be disallowed to the extent that they are greater than EGD's.[22] It is not appropriate to benchmark in this manner against a sample size of one as it does not provide adequate objectivity; further, it would require the processes and resources under consideration to be identical. This is not the case with Union and EGD. While the Utilities operate under the same Framework, it is not appropriate to benchmark their Cap-and-Trade activities against each other as the Utilities have continued to operate as separate legal entities under different incentive regulation models throughout the development and execution of their respective Cap-and-Trade programs. As noted in the response at Exhibit B.SEC.15, each company has independently assessed the Cap-and-Trade program and identified the FTE count necessary to implement its respective program and sustain its operations.

21. While intervenors argue that benchmarking is appropriate, they have not adequately identified any activity or cost incurred by Union that was not prudent or that did not contribute to the successful implementation of its Cap-and-Trade program. Union's approach has resulted in the successful implementation of its Cap-and-Trade program and has positioned it for continuous improvement, considering its advances on the AC and LCIF as examples.

[19] EB-2015-0367 OEB Decision and Accounting Order, Schedule A.
[20] Framework, p. 8.
[21] Exhibit 3, Tab 6, p. 25.
[22] APPrO Submission, p. 11; LPMA Submission, pp. 3-4; EP Submission, p. 9.

22. While Union submits that benchmarking against EGD is not appropriate in this circumstance, Union notes that its forecast administrative costs for 2018 are approximately 1.4% of its total cost of compliance, which is well within the range of administrative costs reported by California utilities for 2015 of up to 2.7%.[23]

23. ***Proposed reductions arbitrary.*** Certain intervenors propose that Union's administrative costs budget be capped at a certain level (for example, SEC proposes a 25% reduction and LPMA proposes a reduction of $0.8 million).[24] These proposals are arbitrary and should be rejected. They are based on a bald assertion that further efficiencies could be achieved without any analysis tying the proposed reduction with an actual cost that the intervenor says could have been or should be avoided.

24. OEB Staff argue that incremental staffing resources for 2018 should not be approved, with the exception of one incremental FTE for the LCIF.[25] Union has not proposed <u>any</u> incremental FTE as part of its 2018 Compliance Plan. All of the FTEs included in its 2018 Compliance Plan were part of the 11.5 FTEs included in the administrative costs for Union's 2017 Compliance Plan, which the OEB determined were consistent with the expectations established by the Framework. Neither OEB Staff nor any intervenor has put forward compelling evidence or argument that would warrant denying Union costs associated with these previously approved FTEs.

25. ***No "padding" of administrative cost forecasts.*** LPMA argues that Union "padded" its 2017 forecasts and that there is *"no evidence to suggest this has changed for the 2018 forecasts."*[26] There was no "padding" of the administrative costs forecast for either the 2017 or the 2018 Compliance Plans. The timeline to launch the Cap-and-Trade program in Ontario and subsequently for the Utilities to develop and implement their respective Cap-and-Trade programs for January 1, 2017 was extremely tight. It was critical that Union develop the systems, processes, expertise and governance necessary to ensure compliance. As such, Union proposed a

[23] EB-2015-0363 OEB Staff Discussion Paper (dated May 25, 2016), p. 30.
[24] SEC Submission, pp. 3-4; LPMA Submission, p. 4.
[25] OEB Staff Submission, p. 4.
[26] LPMA Submission, p. 4.

budget for 2017 costs, in November 2016, which reflected the uncertainties in the Cap-and-Trade landscape and the nascence of Ontario's Cap-and-Trade program. The OEB found that budget to be consistent with the expectations established in the Framework and that the Gas Utilities will be able to refine their cost estimates over time with experience.[27] Union encompassed the knowledge gained throughout 2017 when developing its 2018 administrative cost forecast, as is evident by the reduction in FTE count and overall forecast administrative costs compared to the level forecast in its 2017 Compliance Plan.[28]

C. Issue 1.1: Forecasts – *The volume forecasts used are reasonable and appropriate*

26. Union's 2018 customer-related and facility-related volume forecast of 7,957,882,556 m^3 is reasonable and appropriate. BOMA supports Union's volume forecast, and OEB Staff submit that Union's volume forecast is consistent with the OEB's Cap and Trade Framework and appropriately uses OEB-accepted volume forecast methodologies.[29] LPMA states the Board should accept Union's methodology, but requests that the forecast be further updated to reflect current information.[30] As set out in Union's responses at Exhibit B.LPMA.21, Exhibit B.LPMA.25 and Exhibit J2.1, it is not reasonable or appropriate for Union to update its 2018 volume forecast to reflect the updates requested by LPMA, because: (1) they result in a reduction of less than 7% of the volume forecast underlying Union's GHG obligation and are therefore not material; (2) updating Union's annual forecast mid-year would add unnecessary complexity while adding no material value; and (3) actual costs incurred as the result of Union's actual volumes will be the subject of a future proceeding when Union applies to dispose of its corresponding balances in deferral accounts.

D. Issue 1.2: Forecasts – *The GHG emissions forecasts are reasonable and appropriate*

27. Union's GHG emissions forecast of 14.93 megatonnes ("Mt") of carbon dioxide equivalent ("CO_2e") for 2018 is reasonable and appropriate. OEB Staff, LPMA and BOMA

[27] EB-2016-0296 OEB Decision and Order, p. 16.
[28] Exhibit 3, Tab 5, pp. 5-6.
[29] BOMA Submission, p. 19; OEB Staff Submission, p. 11.
[30] LPMA Submission, pp. 7-8.

agree that Union appropriately estimated its GHG emissions forecast for 2018, and no intervenor has identified any concern with the forecast.[31]

E. Issue 1.3: Forecasts – *The carbon price forecast is reasonable and appropriate*

28. Union's 2018 carbon price forecast of $18.99 CAD/tonne CO_2e is reasonable and appropriate. Union's 2018 carbon price forecast, deemed the "proxy carbon price", is comprised of the average 21-day strip of ICE daily settlement prices for a California Carbon Allowance ("CCA") as explained at Exhibit 2, Schedule 2. Union's proxy carbon price represents a deviation from the Framework which specifies that rates should be set using the annual weighted average cost of a utility's proposed compliance options ("WACC"). Union has proposed to set 2018 rates based on the proxy carbon price in order to avoid possible breach of the C*limate Change Act* that would occur through the disclosure of Union's Strictly Confidential WACC.[32]

29. OEB Staff and LPMA agree that this approach for determining the proxy carbon price is appropriate for 2018.[33]

30. However, BOMA argues that the 2018 carbon price should instead be based on the clearing price of the March 2018 auction,[34] while LPMA argues that, like the QRAM process, the OEB should require Union and the other utilities to update the 21-day strip to reflect the most recent information available in future applications as opposed to using the figures provided in their original evidence.[35]

31. Union does not agree with the suggestions of BOMA and LPMA. In its Decision on Union's 2017 Compliance Plan, in denying similar requests to update the forecast proxy carbon price in that proceeding, the Board stated that *"This approach is consistent with the Cap and Trade Framework as … the Gas Utilities are to use a carbon price forecast established closest to the application filing date*."[36] Union submits that this approach avoids unnecessary

[31] OEB Staff Submission, p. 11; LPMA Submission, p. 9; BOMA Submission, p. 19.
[32] Union Argument-in-Chief, p. 8.
[33] OEB Staff Submission, p. 12 & 39; LPMA Submission, p. 9.
[34] BOMA Submission, p. 19.
[35] LPMA Submission, p. 9.
[36] EB-2016-0296 OEB Decision and Order, dated September 21, 2017, p. 22.

administrative complexity and avoids using a mid-year 21-day strip that does not encompass all months of 2018. Further, any variance between forecast and actual costs incurred will be captured in deferral accounts and reviewed as part of a future proceeding when Union applies to dispose of its corresponding balances in those same deferral accounts. Updating them now would result in immaterial differences in the deferral account.

F. Issue 1.4: Compliance Plan – *Union has reasonably and appropriately conducted its Compliance Plan option analysis and optimization of decision making*

Issue 1.7: Compliance Plan – *Union reasonably and appropriately conducted its Compliance Plan risk management processes and analysis*

32. The option analysis and optimization of decision making, and risk management processes and analysis, included in Union's 2018 Compliance Plan are reasonable and appropriate. Union's 2018 Compliance Plan is focused on satisfying Union's compliance obligation related to 2018 emissions at a reasonable and prudently incurred cost for ratepayers and is largely based on purchasing compliance instruments.[37] In accordance with the Framework, Union's 2018 Compliance Plan includes expanded consideration of customer and facility-related abatement. Similarly, Union's 2018 Compliance Plan aligns with the Decision on Union's 2017 Compliance Plan which states:

> *Gas Utilities are* ***encouraged to give further consideration to these options for inclusion in future Compliance Plans*** *with the benefit of time, availability of the MACC and LTCPF, as well as new information and regulations/policies regarding other options such as offsets.*[38]

Considering this encouragement, and as set out in greater detail under Issue 1.10 below, Union's 2018 Compliance Plan uses the OEB's MACC and LTCPF as principal tools to evaluate potential incremental energy efficiency opportunities, facility abatement initiatives, and new technologies. As explained in paragraph 4 and below in paragraphs 54 to 93, Union has concluded that there are no incremental cost-effective and prudent energy efficiency

[37] Exhibit 3, Tab 1, p. 2.

[38] EB-2016-0296 OEB Decision and Order, p. 27 [emphasis added].

opportunities to pursue as part of its 2018 Compliance Plan beyond the opportunities pursued through Union's existing DSM programs.[39] This was further explained by Mr. Ginis:

> *When we did our assessment…[c]omparing our DSM framework to the abatement opportunity identified in the MACC, **our DSM program surpassed that abatement amount overall**, and I think that goes to show that our DSM framework is quite large. We've been doing it for over 20 years now, and the 2015-2020 DSM framework itself has OEB-approved budget over six years of approximately $700 million. So it's true **we haven't had an incremental abatement, and that is because we are already pursuing the abatement that has been identified in the MACC through our DSM programs**.*[40]

33. Union's DSM programs are focused on implementing commercially viable, readily available and cost-effective energy efficiency opportunities. However, as set out in further detail in paragraphs 35 to 53 below, in order to accelerate the advancement of new and emerging energy efficiency opportunities to the stage of commercial viability, Union has proposed the AC and LCIF to promote the investigation, evaluation and development of innovative abatement initiatives and new technologies over the long-term. Through Union's AC and LCIF, the intent is that a steady flow of cost-effective, readily available and commercially-viable incremental energy efficiency abatement measures will be available in the future. As Ms. Flaman explained:

> *It [Union's 2018 Compliance Plan] reflects continuous improvement and advancement … in our compliance processes and activities…*
>
> *We have introduced the abatement construct to advance abatement initiatives both in the short and long-term. Abatement initiatives can develop over a period of several years, particularly given their reliance on new and emerging technologies and the iterative nature of their development.*
>
> *Union has worked with Enbridge Gas Distribution to develop the initiative [funnel], reflected by the graphic on this slide to depict the process of identifying, developing, and implementing abatement opportunities.*

[39] Exhibit B.Staff.31; Exhibit B.ED.37.

[40] Tr. 1, pp. 146-147 [emphasis added].

We believe the abatement construct is not only conducive to, but necessary to drive forward abatement in the province in order to benefit our customers and advance the low carbon economy.

There may be many concepts or ideas that Union will investigate in parallel as possible abatement opportunities, with only some coming to fruition.

In order to achieve the greenhouse gas reduction targets set out by the province and for Union to satisfy its obligations under the Climate Change Act and the framework, alternative funding models should be considered for step change initiatives that may not be cost effective within existing regulatory mechanisms.

Since the abatement construct is consistent with guiding principles in the framework, it is Union's intent that this abatement construct be applicable to future abatement proposals and compliance Plans.

To support the transition to a lower carbon economy, Union proposes to establish a low carbon initiative fund to facilitate development of new technologies aimed at moving future abatement opportunities through the initiative funnel.

We believe that a consistent, predictable level of available funding is necessary to support the steady flow of ideas into and through the initiative funnel described.

This allows for new innovative opportunities to be identified and explored. By leveraging the low carbon initiative fund, in combination with its market infrastructure and regulatory expertise, Union can remove adoption barriers and facilitate the highest potential abatement applications being developed through to commercialization.

In the end, this will contribute to reducing greenhouse gas emissions in Ontario, while making commercially viable technology choices available for Ontarians.[41]

[41] Tr. 1, pp. 19-21.

G. Issue 1.6: Compliance Plan – *Union's proposed performance metrics and cost information are reasonable and appropriate*

34. Union agrees with OEB Staff's statement that the performance metrics set out in the Framework should continue to be relied on.[42]

H. Issues 1.8 & 1.9: Compliance Plan – *Union's proposed longer-term investments and new business activities are reasonable and appropriate*

35. Union's 2018 Compliance Plan sets out a means to invest in the development of a steady supply of incremental abatement opportunities for the future through the AC and LCIF. As set out in its AIC, Union has developed the AC and proposed the LCIF to support the investigation, evaluation and development of innovative abatement initiatives and new technologies over the long term.[43] Union requests funding up to $2.0 million for the LCIF beginning in 2018.

36. BOMA, LIEN, LPMA and OSEA generally support Union's AC and LCIF concepts and/or the innovative pursuit of potential abatement.[44] OEB Staff states that it is *"supportive of the Gas Utilities taking a proactive approach to innovation…and is of the view that ratepayer funding can be appropriate for certain types of research and development (R&D) activities."*[45]

37. In this section, Union responds to the main submissions made by OEB Staff and certain intervenors with respect to the LCIF.

38. ***Funding of up to $2.0 million for the LCIF is appropriate and reasonable.*** Funding of up to $2.0 million for the LCIF is supported by OSEA and BOMA (subject to the sharing of economic gains and knowledge developed as discussed in paragraph 53 below),[46] and is not opposed by CME.[47]

[42] OEB Staff Submission, p. 13.
[43] Union Argument-in-Chief, pp. 17-18.
[44] BOMA Submission, p. 14; LIEN Submission, p. 4; LPMA Submission, pp. 5 & 11-12; OSEA Submission, p. 2.
[45] OEB Staff Submission, p. 28.
[46] BOMA Submission, p. 14; OSEA Submission, p. 2.
[47] CME Submission, p. 1.

39. APPrO would support a LCIF of up to $500,000.[48] OEB Staff supports the LCIF with funding at a level of $750,000 per utility.[49] IGUA submits that $1.1 million should be approved for Union, while LPMA states funding should be capped at $1.2 million, if the Board approves funding for the LCIF.[50] VECC submits that each utility should receive $1.6 million.[51] While Union will work within whatever budget cap is approved by the Board, it notes that at lower funding levels than proposed, Union's ability to invest in projects that could result in greenhouse gas abatement in the future will be substantially curtailed.[52]

40. OEB Staff also supports Union's prudence review proposal related to LCIF costs.[53]

41. ***LCIF is directed at pre-commercial opportunities.*** OEB Staff suggest that the LCIF should be directed at technologies that have developed beyond the research stage, and that the LCIF should not be allocated to technologies that could be deployed in DSM rather than Cap-and-Trade, as Union's DSM budget includes funding to support research and development of technologies similar to LCIF.[54] However, as explained during the Oral Hearing, the intent of the LCIF is to advance pre-commercial technologies, whereas the DSM research and development budget is strictly dedicated to technologies that are already commercially available:

> *MS. FLAMAN: …From a DSM -- we do have a DSM research budget. That is $1 million, subject to check. And as you looked at the funnel, recall that it had the proposed conceptualized -- kind of that stage 3 piece.* ***That's where the DSM research budget is primarily focused. It's focused on technologies that are ready for commercialization****, ready to enter the market, and whether or not they are appropriate for our DSM program, so that's what we look at those for, and then I guess over to you to fill in the LCIF part.*
>
> *MR. TROFIM-BREUER: Yeah, and* ***the LCIF part is focused on technologies that are -- is -- they are pre-commercial****, so they require a level of understanding, assessment, and demonstration in*

[48] APPrO Submission, p. 3.
[49] OEB Staff Submission, p. 28.
[50] IGUA Submission (Revised), p. 3; LPMA Submission, p. 6.
[51] VECC Submission, pp. 2 & 22.
[52] Tr. 2, p. 163.
[53] OEB Staff Submission, p. 31.
[54] OEB Staff Submission, p. 29.

> *order to be able to determine whether they can be deployed here or not.*[55]

42. Therefore, it would not be appropriate to direct that LCIF funds be apportioned to specific projects that are beyond the research and development stage, as these types of initiatives are already captured under the existing DSM research budget.

43. ***Union does not object to additional criteria for the abatement construct.*** In recognition of the Framework and encouragement received from the Board's Decision on Union's 2017 Compliance Plan, Union worked collaboratively with EGD to establish the AC and LCIF in a short time-frame in order to be prepared to propose them for August 1, 2017. Subsequently, Union has worked hard using a minimal budget to conduct initial research and to gain an understanding of market opportunities that are good candidates to move through the initiatives funnel towards commercialization. It did so with an initial set of criteria to start and is before the Board in this proceeding requesting funding to develop all aspects of the AC and LCIF further, including the criteria, the selection and the project management process.

44. Union has no objection to the inclusion of three of the additional criteria that OEB Staff proposes for the AC: cost-effectiveness, benefit to ratepayers via GHG abatement, and that the measure is truly innovative.[56] Union also does not object to the inclusion of barriers to adoption as an additional criterion as proposed by VECC.[57] VECC also submits that cost-effectiveness was not an adequate priority of Union's proposal.[58] On the contrary, cost-effectiveness was a consideration. Union stated at Exhibit B.Staff.18:

> *Cost-effectiveness is one of the guiding principles of the Cap-and-Trade Framework and is applied in the evaluation of abatement. […]* ***Union has presented the guiding principles in the Abatement Construct which are complementary to the guiding principles of the Cap-and-Trade Framework.*** *Each of the guiding principles of*

[55] Tr. 2, pp. 188-189 [emphasis added].
[56] OEB Staff Submission, p. 30.
[57] VECC Submission, p. 7.
[58] VECC Submission, p. 6.

> *the Abatement Construct upholds the guiding principles of the Framework […]*[59]

45. However, in Union's view, commercial viability, which OEB Staff recommends as an additional criterion[60], is more properly considered as an output of a successful initiative rather than as a pre-selection criteria, since commercial viability will not be known until the measure makes it through the initiatives funnel.[61]

46. SEC and EP argue that the Utilities need to return with additional detail and justification for project selection and spending requirements. [62] Similarly, OSEA submits that the Board should require additional details about measures in future Compliance Plans.[63] Union cautions that with any form of research and development initiative, there must be a balance between the level of approval/oversight required and the flexibility to pursue opportunities in a fast-paced environment. It would not be feasible or desirable to return to the OEB with unique applications for each of the technologies and opportunities Union is investigating. This would contradict the purpose of the AC and LCIF as proposed and would result in an increased cost burden to ratepayers and regulatory inefficiency.

47. ***Approval of the costs consequences of the LCIF is not premature***. IGUA, VECC, SEC, LPMA and CCC submit that it would be premature or inappropriate to approve ratepayer funding for the LCIF, that government funding should be pursued or that uncertainties with respect to the sector persist.[64] Union has no insight into the future opportunity for government funding and must move forward to comply with its responsibility to advance abatement despite this. Union submits that because the sector is changing, in order to support the Framework, a stable and consistent source of funding must be made available.

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[59] Exhibit B.Staff.18 [emphasis added].

[60] OEB Staff Submission, p. 30.

[61] Exhibit 3, Tab 4, Section 1.2, pp. 8 – 12.

[62] SEC Submission, p. 5; EP Submission, p. 3.

[63] OSEA Submission, p. 7.

[64] IGUA Submission (Revised), p. 2; VECC Submission, p. 22; SEC Submission, pp. 6-7; LPMA Submission, p. 5; CCC Submission, pp. 7-8.

48. Union submits that the majority of its customers support its role in developing new technologies that will provide access to reliable energy and lower GHG emissions.[65] Union's LCIF proposal is consistent with this feedback.

49. As set out in Union's responses at Exhibit B.Staff.1 e) and Exhibit B.Staff.19, Union has met with provincial ministries in relation to other applicable measures that can be effective in reducing GHG emissions, and may require funding. These include energy efficiencies, CNG and geothermal. Union has also had energy efficiency program discussions with government focused on Residential, Commercial/Industrial, Indigenous, and Market Transformation opportunities that complement existing DSM programs.[66] While Union will make use of any government funding that is available, it is not a substitute for Union driving innovation by advancing abatement opportunities to the extent possible over and above whatever government funding becomes available.

50. SEC submits that approval of LCIF funding is premature for 2018, and asserts that Union has not put forward a business case, research summary or detailed work plan.[67] On the contrary, Union has provided in its responses to undertakings JT1.17 and JT1.31 project descriptions, work plans, project budgets, deliverables and year-to-date spend and schedules for each of the proposed projects, to the extent available. Furthermore, Union has indicated that it expects to continuously improve its selection, project management and reporting in relation to LCIF initiatives going forward and is supportive of the additional work plan detail recommended by OEB Staff.[68]

51. ***Approval of an LCIF for both Utilities is appropriate.*** APPrO submits that approving the LCIF for both Utilities will create inefficiencies and duplication in getting up the learning curve, and in administrative costs.[69] Similarly, EP, SEC and LPMA expressed concerns with duplication of effort between the Utilities.[70] However, initiatives will perform differently

[65] Exhibit B.Staff.22.
[66] Exhibit B.Staff.1 e).
[67] SEC Submission, pp. 4-5.
[68] Exhibit J2.8A; OEB Staff Submission, p. 31.
[69] APPrO Submission, pp. 7-8.
[70] EP Submission, pp. 4-5; SEC Submission, p. 7; LPMA Submission, p. 12.

depending on the franchise area in which they are located.[71] Costs associated with the research and development and subsequently with administration of the LCIF are therefore unique to each utility as their activities are not identical. Ongoing dialogue is taking place between Union and EGD to ensure that there is no duplication in the initiatives that will be pursued.[72]

52. ***No need to change the allocation methodology.*** IGUA states that the costs of any utility technological innovation initiatives should be allocated to those utility rate classes who stand to benefit and should not be recovered through broader utility rates (i.e., industrial rate classes should not pay for research and development initiatives that benefit only commercial and residential rate classes and vice versa).[73] As set out in Union's AIC, Union will propose an allocation methodology for the 2018 GGEIDA balance (including the LCIF) at the time the deferral balance is proposed for disposition, and that this is not a matter to be decided in this proceeding.[74] However, Union notes that all customers stand to benefit from reduced emissions in Ontario. The allocation of administrative costs among all customer classes is consistent with historical Board-approved methodology and the costs are not material enough to warrant changing the allocation methodology.[75]

53. ***Benefits and intellectual property rights resulting from the LCIF will be appropriately accounted for and managed.*** OEB Staff, APPrO, LPMA, BOMA and SEC all submit that public disclosure of intellectual property related to the LCIF is appropriate, and/or that the benefits of any LCIF initiatives should accrue to ratepayers.[76] Union will account for the benefits relating to LCIF initiatives and will ensure that they accrue to ratepayers as appropriate.[77] As set out in Union's response at JT1.32, any intellectual property owned by a trade partner that is associated with an LCIF initiative would be governed by the terms of any contract between Union and that partner. To the extent that Union deems that it is appropriate to make any associated information

[71] Tr. 1, pp. 131-132.
[72] Tr. 1, pp. 131-132.
[73] IGUA Submission (Revised), p. 3.
[74] Union Argument-in-Chief, p. 29.
[75] Framework, pp. 30-31.
[76] OEB Staff Submission, pp. 31-32; APPrO Submission, pp. 4 & 12; LPMA Submission, p. 6 & 12; BOMA Submission, p. 14; SEC Submission, p. 7.
[77] Tr. 1, pp. 81-82.

publicly available, Union is willing to do so consistent with the manner suggested by OEB Staff.[78]

I. Issue 1.10: Compliance Plan – *Union's greenhouse gas abatement activities are reasonable and appropriate*

54. Union's 2018 Compliance Plan is focused on achieving compliance with Cap-and-Trade regulations at a reasonable and prudently incurred cost for ratepayers, balancing cost-effectiveness and risk, while also complying with the requirement in the Framework to assess whether incremental abatement opportunities exist.[79] Union's 2018 Compliance Plan also reflects the OEB's encouragement to consider options including abatement as expressed in its Decision on Union's 2017 Compliance Plan.[80] Accordingly, Union's 2018 Compliance Plan includes expanded consideration of customer and facility-related abatement for 2018.

Union used the OEB's MACC and LTCPF as a principal tool to assess whether incremental abatement opportunities exist

55. To facilitate its expanded consideration and evaluation of abatement, Union used the OEB's MACC and LTCPF as a principal tool to assess the potential for incremental energy efficiency opportunities, facility abatement initiatives, and new technologies. Union utilized the MACC for its stated purpose, which is to identify *"how much natural gas abatement can be achieved, and how much is cost effective under three different carbon price scenarios"*.[81] In its response at Exhibit B.Staff.31, Union described its assessment of the MACC savings potential for the Commercial, Industrial and Residential sectors compared to the savings forecast from its existing DSM programs, and appropriately concluded that Union's current DSM programs surpass the MACC forecast overall, and that no further abatement was prudent to pursue in its 2018 Compliance Plan beyond Union's current OEB-approved 2015-2020 DSM Plan programs. Union further explained why it was not prudent to pursue any particular opportunity identified in the MACC that was not part of its existing DSM programs.

[78] OEB Staff Submission, pp. 31-32.
[79] Union Argument-in-Chief, p. 8; Exhibit 3, Tab 1, pp. 5-9.
[80] EB-2016-0296 OEB Decision and Order, p. 27.
[81] Exhibit KT1.2, MACC Report, p. 6.

56. As Union's 2018 Compliance Plan is focused on compliance and prudence of compliance costs, Union went further, supporting its primary assessment of abatement using the MACC, by using the Conservation Potential Study ("CPS") as a secondary tool to determine whether pursuing any abatement programs would be more cost effective than Union's alternative compliance instruments. This secondary tool uses the TRC-Plus cost-effectiveness screening test and assumes aggressive adoption rates. Union's secondary assessment of the CPS concluded that even at the most aggressive levels of assumed Achievable Potential, the cost to Union and ratepayers of incremental abatement far exceeds Union's alternative costs of compliance for 2018 and also far exceeds the highest cost of a compliance instrument forecasted in the LTCPF Mid-Range forecast from 2018-2028 ($60 CAD per tonne CO_2e - $119 CAD per tonne CO_2e respectively). Therefore, Union again concluded that it would not have been reasonable or appropriate to prioritize incremental abatement ahead of lower cost compliance alternatives in its 2018 Compliance Plan.

57. In their submissions, EP and IGUA agree with Union's approach of not including further abatement in its 2018 Compliance Plan.[82] Similarly, CCC states *"…for 2018, there is not an opportunity for the utilities to pursue DSM beyond the levels that they are currently doing."*[83]

No merit to OEB Staff and intervenor submissions that more incremental abatement should have been pursued

58. OEB Staff and several intervenors argue that incremental abatement should have been pursued in 2018,[84] and argue that a portion of the forecast cost consequences of Union's 2018 Compliance Plan should be denied as a result, with requests for costs disallowance ranging from $0.7 million to $18 million.[85]

59. There is no merit to these submissions. Union addresses the main arguments raised by OEB Staff and intervenors below as follows:

[82] EP Submission, p. 2; IGUA Submission (Revised), p. 3.

[83] CCC Submission, p. 8.

[84] OEB Staff Submission, p. 17; BOMA Submission, p. 10; ED Submission, p. 1; GEC Submission, p. 3; LIEN Submission, p. 4; OSEA Submission, pp. 2-3;VECC Submission, p. 1.

[85] OEB Staff Submission, p. 4; ED Submission, p.1 ($36 million / 2) and p. 18; GEC Submission, p. 22.

(1) Union did not misinterpret the intended use of the MACC;

(2) Union's reliance on the MACC was reasonable and appropriate;

(3) Union did not concede that cost-effective abatement opportunities could be pursued under the Cap-and-Trade Framework;

(4) OEB Staff inaccurately calculated the level of incremental abatement opportunity available;

(5) Union's adjustments to the MACC were appropriate, and in any event did not change its overall conclusions; and

(6) It would be inefficient to conduct incremental abatement programs within the Cap-and-Trade Framework.

60. ***Union did not misinterpret the intended use of the MACC.*** In their submissions, OEB Staff and ED assert that Union misinterpreted the MACC.[86] In particular, OEB Staff and ED introduce nearly identical new interpretations of the MACC's purpose in their respective submissions, suggesting that it was inappropriate for Union to utilize the MACC to assess how much cost-effective abatement opportunity could be achieved in its 2018 Compliance Plan. ED in particular asserts that the MACC *"is not meant to determine the gas savings potential for each abatement option"*.[87] This new interpretation, introduced for the first time in the OEB Staff and ED submissions, is supported neither by the MACC itself nor by the process that led to its development.

61. First, the MACC Report makes clear that its purpose is to determine how much natural gas abatement can be achieved and how much is cost-effective. The *Customer Abatement Methodology and Assumptions* section of the MACC Report states:

> *In order to answer the question of* ***how much natural gas abatement can be achieved, and how much is cost effective under three different carbon price scenarios****, ICF leveraged all of the data inputs and assumptions from utilities and stakeholders that were used to develop the proprietary Conservation Potential Study*

[86] OEB Staff Submission, p. 18; ED Submission, p. 9.

[87] ED Submission, p. 9.

> *(CPS) model, and incorporated the long-term carbon pricing forecasts (LTCPF), see Section 1.4.2 for an explanation of carbon pricing inputs.*[88]

62. Further, the principal output of the MACC Report are the MACC diagrams, which clearly illustrate savings potential:[89]

> *The MACC diagrams illustrate **the estimated achievable potential savings**, in tonnes CO_2e and cubic meters of natural gas, for natural gas customer conservation measures.*[90]

63. In describing how to interpret the MACC diagrams, the MACC Report states:

> *The width of the bars represents the **abatement potential** for each group of measures. The marginal abatement for 2018-2020 (the y axis) is the sum of the marginal **abatement potential available** in 2018, 2019, and 2020.*[91] […]
>
> *The numeric labels associated with each bar on the MACCs indicate the **sum of the marginal abatement**, in tCO_2e and m^3 […]*[92]

64. Second, as a member of the Technical Advisory Group ("TAG") for the development of the MACC, Union notes that OEB Staff acknowledged that the MACC would reflect abatement potential. OEB Staff requested feedback from TAG members regarding how abatement potential should be determined for the MACC (Union provided feedback on March 1, 2017).[93] Specifically, OEB Staff's Requested Areas of Input from TAG members included the following questions:

> *Should the MACC display 'all' available **customer abatement potential**, or only the **incremental potential beyond DSM**?*[94] […]

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[88] Exhibit KT1.2, MACC Report, p. 6 [emphasis added].
[89] Exhibit KT1.2, MACC Report, Exhibit 1, p. 10.
[90] Exhibit KT1.2, MACC Report, p. 25 [emphasis added].
[91] Exhibit KT1.2, MACC Report, p. 25.
[92] Exhibit KT1.2, MACC Report, p. 25 [emphasis added].
[93] Exhibit B.ED.30 Attachment A.
[94] Exhibit B.ED.30, Attachment A, p. 2.

> *What scenario data from the CPS should be used as a basis for the greenhouse gas **abatement potential** of measures on the MACC?*[95]

Union notes that the attention that the TAG dedicated to assessing abatement potential contradicts OEB Staff's current position.

65. Third, OEB Staff's current position contradicts the positions it took throughout this proceeding, in which it regularly inquired about the abatement potential identified in the MACC. During the Interrogatory process, at the request of OEB Staff, Union provided *"… calculations of the OEB MACC mid-range LTCPF savings potential…"*.[96] During the Technical Conference, OEB Staff further requested *"… the end use analysis/forecast potential of current DSM programs compared to the opportunity that's been presented in the MACC …"*.[97] During the Oral Hearing, at the request of OEB Staff, Union provided its past DSM program abatement results in a format that aligns with the MACC's end use segment abatement potential.[98] Despite all of the detail requested from Union regarding abatement potential, throughout the 2018 Compliance Plan proceedings until intervenor submissions were received, neither OEB Staff nor ED suggested that Union had misinterpreted the MACC in the manner that their submissions conclude. Contrary to the conclusion in OEB Staff's submission, during the cross-examination of Union's witness panel, OEB Staff counsel stated *"Now, Union's acknowledged a few times both yesterday and today that the MACC shows realistic potential **and Staff agrees with those statements**."*[99] OEB Staff's interest throughout the proceeding in the comparison between Union's DSM abatement results/forecasts and the abatement potential identified in the MACC is inconsistent with their final conclusion that the MACC was not meant to be used to assess abatement potential.

66. Furthermore, Mr. Neme, who participated in the MACC development process, did not support the argument that the MACC was not meant to be used to assess abatement potential in his testimony. For example, when asked to *"… summarize your understanding of how Union*

[95] Exhibit B.ED.30, Attachment A, p. 1 [emphasis added].
[96] Exhibit B.Staff.31.
[97] Exhibit JT1.8.
[98] Exhibit J2.7.
[99] Tr. 2, p. 171 [emphasis added].

assessed the potential for additional energy efficiency",[100] Mr. Neme first indicated that, *"like Enbridge, Union focused its analysis on the MACC study..."*.[101] Mr. Neme then proceeded to provide his criticisms of Union's approach. Union's use of the MACC to assess abatement potential **was not** included in Mr. Neme's list of criticisms. In fact, during cross examination of Mr. Neme at the Oral Hearing, OEB Staff counsel directly asked Mr. Neme for his understanding of the intended purpose of the MACC. Mr. Neme confirmed that the MACC identifies savings potential, and did not suggest that the MACC is not intended to be used to assess abatement potential.[102] Mr. Neme's testimony clearly does not support the conclusions drawn by OEB Staff and ED.

67. Overall, OEB Staff and ED's common assertion that Union should have disregarded all of the above and instead should only have used the MACC for the purpose of prioritizing customer abatement options is inconsistent and contradictory to the MACC itself and should be dismissed. Union has reasonably concluded that the savings potential volumes included in the MACC were: (a) meant to be used; and (b) meant to be used in a manner consistent with Union's analyses included in its application.

68. ***Union's reliance on the MACC was reasonable and appropriate.*** GEC submits that Union should have considered other information beyond the MACC to reveal that further abatement opportunities were possible.[103] GEC argues that had this been done, the Utilities *"…would have found millions of dollars of savings for ratepayers compared to the option of allowance purchases."*[104] ED submits that the CPS Study shows that more conservation savings are available, that benchmarking studies show that comparable jurisdictions have far more conservation as a percent of sales, and that increased participation rates could be achieved translating to increased conservation.[105] OEB Staff, LIEN, OSEA, BOMA, and VECC also argue that further incremental abatement should have been pursued in Union's 2018 Compliance Plan,

[100] GEC/ED Evidence, p. 18.
[101] GEC/ED Evidence, p. 18.
[102] Tr. 4, pp. 90-91.
[103] GEC Submission, pp. 9 & 11.
[104] GEC Submission, p. 12.
[105] ED Submission, pp. 7-8.

with many relying on the evidence and testimony of Mr. Neme as justification for their conclusions.[106]

69. Both ED and GEC sponsored Mr. Neme's evidence, which takes the abatement opportunity identified by the CPS (i.e. using the TRC-Plus test) in terms of natural gas (m^3) and GHG (tonnes CO_2e) savings, and converts it into monetary figures to conclude that the benefits of both avoided natural gas and avoided carbon costs exceed the costs of pursuing additional abatement opportunity by $36 million.[107] ED and GEC argue that half of this amount, or $18 million, should be disallowed from Union's 2018 Compliance Plan costs.

70. The approach taken by Mr. Neme, and thus the submissions of intervenors that are based on that approach, are not reasonable or appropriate. The approach is contrary to the Cap-and-Trade Framework, which mandates the use of the MACC to assess the cost-effectiveness of incremental abatement opportunity and states that the TRC-Plus test should not be used in assessing that cost-effectiveness. Mr Neme's approach also relies on aggressive adoption rates that are not appropriate for use in a Compliance Plan, because they could lead to substantially increased costs to ratepayers if the savings do not materialize, as Union would be required to pay for both the cost of the program and the cost of the unplanned purchase of compliance instruments. It would not be appropriate for the Board to disallow any portion of the costs consequences of Union's 2018 Compliance Plan on the basis that it does not include incremental abatement in these circumstances.

71. First, as set out at paragraph 52 of Union's AIC, unlike the CPS, the MACC was developed at the OEB's direction specifically for the purpose of assessing incremental abatement opportunities for the purpose of the Cap-and-Trade program, as distinct from the DSM program. In contrast, the CPS was developed specifically for the DSM Framework.[108] The MACC was developed based on the data from the CPS,[109] but tailored specifically for the utilities' Cap-and-Trade Compliance Plans: "*The objective of this study is to provide the OEB with its first*

[106] OEB Staff Submission, p. 25; LIEN Submission, p. 3; OSEA Submission, p. 15; BOMA Submission, p. 8; VECC Submission, p. 1.
[107] GEC/ED Evidence, p. 32, Table 1.
[108] Exhibit KT1.5, CPS, p. i.
[109] Exhibit KT1.2, MACC Report, p. 6.

province-wide marginal abatement cost curve (MACC) to inform the utilities in the development of their Compliance Plans."[110] Mr. Neme acknowledged that his evidence with respect to incremental cost-effective abatement potential for the Utilities' Cap-and-Trade Compliance Plans, which led to the $36 million penalty put forward by GEC and ED, does not in any way consider the OEB's MACC.[111] It would therefore have been inappropriate for Union to use the CPS as the principal tool rather than the MACC in assessing the abatement opportunity, as Mr. Neme has done.

72. Second, as Mr. Neme confirmed, his approach used the TRC-Plus test to identify the abatement opportunity.[112] Yet, the Board determined in the Cap-and-Trade Framework that it is premature to use a cost-effectiveness test like the TRC or SCT for the purpose of the utility's Cap-and-Trade Compliance Plans.[113] ED acknowledged at the Oral Hearing that it had requested the adoption of the TRC-Plus test for the Cap-and-Trade Framework, but that this request had been denied.[114] Therefore, it would not have been appropriate for Union to use this test in assessing the abatement opportunity.

73. Throughout their submissions, ED and GEC support the use of the TRC-Plus test by inaccurately stating that the UCT is the OEB's cost-effectiveness test for the Cap-and-Trade Framework.[115] In making this argument, ED and GEC have disregarded the OEB's Cap-and-Trade Framework itself which does not reference the UCT.[116]

74. Third, the aggressive risk profile used by the CPS to quantify the abatement opportunity is not appropriate for a Compliance Plan focused on balancing cost-effectiveness with risk. In contrast to the CPS's aggressive adoption rates scenario, the MACC uses realistic adoption rates.[117] While it is obvious that use of more aggressive assumptions is likely to result in a higher

[110] Exhibit KT1.2, MACC Report, p. 5.
[111] Tr. 4, p. 78.
[112] Tr. 4, pp. 90-91.
[113] Framework, p. 22.
[114] Tr. 2, p. 83.
[115] ED Submission, pp. 4-5 & 12; GEC Submission, pp. 3 & 10.
[116] Tr. 2, pp. 83-84.
[117] Exhibit KT1.2, MACC Report, p. 22.

forecast of abatement potential, this alone does not justify pursuit of that potential. This is especially true when the cost of that aggressive, and thus higher-risk, potential not being realized will be borne by ratepayers who would pay for both the cost of the program and the unplanned purchase of compliance instruments, and when pursuit of that potential would be justified by use of a tool intended for another purpose.

75. As Mr. Ginis testified at the Oral Hearing:

> *The other item with the CPS that is important to understand is that because it was created for a different framework, it uses a different – what I would consider risk profile to achieving savings.*
>
> *So if we can go to back to the CPS, on page 11 at the bottom of the page, you will see here that there are two bullets and these are the supply curves or adoption rates that are used in the CPS. There's the business as usual and then there's an aggressive case. And throughout the CPS, these two approaches and these two supply curves were used to model the savings that you are referring to in your exhibit that has been screened with TRC.*
>
> ***In the MACC, it does not consider the aggressive case**, and you will see the description of the aggressive case here. It says that that an aggressive program case with best-case participation and high assumptions of program activity.*[118]

He continued:

> ***[I]f these aggressive assumptions do not come to fruition** -- and by definition they are aggressive, so therefore they are less likely to come to fruition -- **the result would be that we have funded energy conservation programs that have failed to achieve the emissions reductions, and we would have to purchase compliance instruments.***
>
> *So **it is important to optimize those adoption rates so that that doesn't occur and that we have a reasonable and realistic approach to abatement in this compliance plan.***
>
> *And so I think that begs the question of, well, what is the reasonable approach, and I think it's clear, and I know I'm repeating myself -- it's that it's the MACC, **because the MACC was***

[118] Tr. 2, p. 21 [emphasis added].

> ***developed specifically for the compliance plan, specifically for the cap-and-trade framework, and it says, quite directly, the MACC, that it is not trying to address the most aggressive approach, it's trying to address realistic adoption rates that would be appropriate for a compliance plan.*** [119]

76. OEB Staff argues that including incremental abatement is less risky than purchasing compliance instruments, and submits "*that if Enbridge Gas and Union Gas undertook incremental abatement activities through their Compliance Plans, ratepayers would be shielded from the known risk of allowance prices increasing in the future.*"[120] This conclusion is flawed because it does not recognize that the MACC includes the LTCPF's increasing carbon costs in its assessment of the cost-effectiveness of abatement opportunity. Union's analysis of the MACC concluded that even with the forecasted increase in allowance costs in the future, there were still no incremental and prudent abatement opportunities to pursue in the 2018 Compliance Plan.

77. Fourth, it would have been all the more inappropriate to use the TRC-Plus test to assess the cost-effectiveness of abatement measures for potential inclusion in the 2018 Cap-and-Trade Compliance Plan given that the OEB has explicitly set a rate impact cap of $2/month for typical residential customers in the context of Union's 2015-2020 DSM Plan that covers measures whose cost-effectiveness is measured using the TRC-Plus test. The OEB explained in its Decision on Union's 2015-2020 DSM Plan that "*The OEB viewed the $2.00/month threshold as a balance between ensuring all cost-effective DSM is pursued and protecting the interests of customers.*"[121] By doing so, cost-effective TRC-Plus abatement opportunities beyond this cap were not approved or pursued as they would have resulted in an aggregate rate impact that exceeds the OEB budget cap. Pursuing additional abatement opportunities through the Cap-and-Trade Framework would contravene this cap and should not be considered unless the cost of such opportunities is less than the cost to the utility of purchasing a compliance instrument. As per Union's evidence, no such opportunities exist in 2018. Union expects that the OEB will continue to assess funding for energy conservation programs by balancing ratepayer impact.

[119] Tr. 2, pp. 122-123 [emphasis added].
[120] OEB Staff Submission, p. 25.
[121] EB-2015-0029 Decision and Order, p. 7.

78. ***Union did not concede that cost-effective abatement opportunities could be pursued under the Cap-and-Trade Framework.*** OEB Staff states that Union's witness *"conceded that the utilities could cost-effectively spend $5 million more on their commercial and industrial programs*".[122] This is not the case. The context of the discussion to which OEB Staff refers was not related to cost-effective abatement under the Cap-and-Trade Framework (i.e. compared to the cost of purchasing a compliance instrument), rather it was related to cost-effective abatement under the DSM Framework (i.e. compared to the cost of all benefits included in the TRC-Plus test):

> *MR. MURRAY: Moving on. Now, Union's acknowledged a few times both yesterday and today that* ***the MACC*** *shows realistic potential and Staff agrees with those statements.*
>
> ***However, the other thing*** *we'd like to note is that Union has proven to be very effective at undertaking* ***DSM*** *over the last 20 years. I think earlier today, we saw numbers of hundreds of millions of dollars that have been saved as a result of the* ***DSM programs*** *[…]*
>
> *If Union were given approval for another $5 million to put towards commercial and industrial-type projects or the segment above what you are currently allotted, would you be able to find a cost effective use for that money? […]*
>
> *MR. GINIS: I think we'd have to do a full assessment to really determine that. But notionally, I am aware that potentially in the small commercial/industrial area there would be an opportunity to spend on that.*[123]

79. As set out above, cost-effectiveness under the DSM Framework is determined by the TRC-Plus test. For the Cap-and-Trade Framework, the OEB stated that it *"considers it premature to apply the TRC or SCT to the Utilities' Compliance Plans at this time"*.[124] Therefore, the fact that some TRC-Plus cost-effective energy conservation opportunities may exist within the DSM Framework is irrelevant to Union's 2018 Compliance Plan.

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[122] OEB Staff Submission, p. 21.

[123] Tr. 2, p. 171 [emphasis added].

[124] Framework, p. 22.

80. ***OEB Staff inaccurately calculated the incremental abatement potential.*** In order to estimate the cost-effectiveness of incremental abatement opportunities, OEB Staff uses the average cost-effectiveness of Union's existing DSM programs for 2018 to 2020 and the average cost-effectiveness of the abatement potential identified by the MACC. Union submits this is an inaccurate way of calculating the incremental abatement potential.

81. Incremental energy conservation programs do not necessarily carry the same cost-effectiveness as existing programs, especially in Ontario where DSM has existed for over 20 years. The MACC Report acknowledges this: "*Natural gas DSM activity is fairly mature in Ontario and there is typically a non-linear relationship between spending and savings in DSM. Customer abatement technologies, measures and programs tend to become increasingly expensive as it becomes necessary to seek less cost effective opportunities in harder to reach markets.*"[125]

82. Even if the guidance included in the MACC Report were ignored, the **average** cost-effectiveness of the existing programs is not an appropriate indication of the **incremental or marginal** cost-effectiveness of a new program. OEB Staff's estimate has assumed that the utility can achieve cost-effectiveness results for new programs at the **average** cost of its existing programs rather than the **incremental or marginal** cost of a new program.

83. The average cost-effectiveness results from the MACC relate specifically to the estimated 2018-2020 abatement opportunity identified in the MACC. The MACC clearly states that "*it is important to note that measures in the MACC include both existing DSM activities as well as potential GHG abatement activities beyond DSM.*"[126]

84. Therefore, in order to assess the cost of the incremental abatement opportunity, it is important to assess the difference between the **total** cost-effective abatement opportunity identified in the MACC Report and Union's existing DSM programs. Union conducted this

[125] Exhibit KT1.2, MACC Report, p. 18.
[126] Exhibit KT1.2, MACC Report, p. 22.

assessment and concluded that Union's DSM programs surpass the total cost-effective abatement opportunity identified in the MACC.[127]

85. ***Union's adjustments to the MACC were appropriate and did not change its overall conclusions.*** OEB Staff, ED, GEC and BOMA submit that Union should not have made adjustments to the MACC to account for Climate Change Action Plan ("CCAP") initiatives and inappropriately adjusted its DSM program savings to account for the exclusion of capped customers.[128] Contrary to these submissions, the adjustments were appropriate, and in any event reversing them would have no impact on Union's conclusions regarding incremental abatement.

86. First, it was appropriate for Union to adjust the MACC to account for new initiatives related to CCAP, and in any event this adjustment did not affect Union's conclusion that no incremental abatement was prudent to pursue in 2018. OEB Staff acknowledges that the abatement opportunity identified in the MACC *"… did not account for new initiatives related to CCAP"* and that it *"acknowledges that the provincial government is investing heavily in residential conservation programs…"*.[129] The new initiatives related to CCAP for energy conservation programs are expected to be extensive, in the range of $2 billion to $4 billion between 2017 and 2020, compared to Union and EGD's combined DSM budget of approximately $115 million per year.[130] Union notes that with respect to the Commercial/Industrial sector, the CCAP identifies $875 million to $1.1 billion in intended Greenhouse Gas Reduction Account ("GGRA") funding effective for 2018 to *"Help companies transition to low-carbon: The government will help Ontario businesses and industries increase their use of low-carbon technologies. Programs and services will be designed and delivered by the green bank to help reduce greenhouse gas pollution while also reducing costs."*[131] These funds are expected to compete with existing and incremental energy conservation programs. Thus, it was appropriate to include this adjustment to ensure that the impact of new initiatives related to CCAP is reflected in Union's assessment of the incremental abatement opportunity.

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[127] Exhibit 3, Tab 4, Appendix A, pp. 4-7; Exhibit B.Staff.31.
[128] OEB Staff Submission, pp. 19-20; ED Submission, p. 8; GEC Submission, pp. 7-8; BOMA Submission, p. 9.
[129] OEB Staff Submission, p. 20.
[130] Tr. 2, pp. 175-176.
[131] CCAP, p. 72. http://www.applications.ene.gov.on.ca/ccap/products/CCAP_ENGLISH.pdf

Precisely accounting for the impact of CCAP initiatives is an extremely complex and time consuming task as identified by both Union and Mr. Neme.[132] Union estimated this impact by using the Net-to-Gross adjustment factor used in the context of Union's DSM programming, which is the only approved adjustment rate currently available to reflect influence outside of Union's programming.[133]

87. In any event, this adjustment was in fact not material to Union's conclusions regarding the incremental abatement opportunity.[134] In other words, whether the adjustments were 0%, 100%, or anything in between, Union's DSM programs surpassed the opportunity identified in the MACC overall.

88. Second, it was also appropriate for Union to exclude savings from its Large Volume DSM program as a proxy for capped customers' savings when comparing its DSM program savings to the MACC abatement opportunity. In any event, like the adjustment to account for CCAP programs, this adjustment is not material to Union's conclusions. In completing its analysis, Union compared its Residential and Commercial/Industrial DSM Programs to the MACC.[135] Mr. Neme argues that this resulted in a comparison that is not "apples to apples", because Union's Commercial/Industrial DSM programs also include savings from capped customers.[136] A total of 35% of the savings in the Commercial/Industrial sector are estimated to be from capped customers, while 75% of the Large Volume sector savings are estimated to be from capped customers.[137] By excluding all the Large Volume sector savings but including all the Commercial/Industrial savings, Union was able to arrive at a simple and efficient proxy. Alternatively, if the savings from the capped customers within the Commercial/Industrial DSM programs were to be excluded, the savings from the uncapped customers within the Large Volume programs would have to be included. Given that Union's Large Volume DSM program

[132] Exhibit GEC/ED.STAFF.4.
[133] Tr. 2, pp. 130-31.
[134] Tr. 2, p. 131.
[135] Exhibit 3, Tab 4, Appendix A, pp. 4-7.
[136] GEC/ED Evidence, p. 20.
[137] Exhibit J2.2, Attachment A.

includes more forecasted savings than its Commercial/Industrial DSM program the impact of this adjustment is not material.[138]

89. ***It would be inefficient to pursue incremental abatement opportunities through the Cap-and-Trade Framework.*** OEB Staff states that *"Union Gas indicated that they believe that any incremental cost-effective abatement opportunity identified should be pursued through the DSM Framework, and that pursuing it through its Cap and Trade Compliance Plan would result in duplication. However, Union Gas agreed with OEB staff in the oral hearing that there was nothing precluding it from pursuing incremental abatement through the Cap and Trade Framework."*[139]

90. Union has never stated that it would not pursue abatement within the Cap-and-Trade Framework. Union has assessed the OEB's MACC and LTCPF and did not identify any prudent opportunities beyond its current DSM programs. This conclusion has not stopped Union from setting the stage for future abatement program development through its proposed LCIF, through continuing to pursue government funds to support incremental energy conservation abatement and through expanding the existing Green Investment Fund ("GIF") Home Reno Rebate programs.

91. However, Union continues to be of the view that it would be most efficient to address all energy conservation programs through a single framework. As Mr. Ginis testified at the Oral Hearing:

> *MR. GINIS: Yes, I think so. I think the point, though, that we are making here is that* ***this occurs in the DSM Framework and in order to mitigate duplicating this process, we think that it would be most appropriate to deal with energy conservation programs through a single framework****. And we had some conversation earlier about different incentive levels and such, and the type of proceeding that occurs in the DSM Framework to assess those things, and it's quite detailed, so* ***had the MACC shown a significant amount of abatement above what we're doing in DSM, essentially what we would be doing is two DSM plans***

[138] Exhibit J2.2, Attachment A.

[139] OEB Staff Submission, p. 23.

> ***through two separate frameworks****, and I think our point here is that* ***we don't think that that makes a lot of sense in terms of the costs, the regulatory costs, to do that****.*
>
> *MR. MURRAY: But you would agree there is nothing precluding you from doing it through the cap-and-trade framework?*
>
> *MR. GINIS: Yeah, I think it's clear in the Board's framework that abatement that is incremental to our DSM plan,* ***if prudent to pursue****, could be addressed through their cap-and-trade framework.*[140]

92. In Exhibit B.GEC.22, Union explained the potential for inefficiency and increased cost to ratepayers that would result from the duplication of the DSM Framework for the design, review, and approval of energy conservation plans within the Cap-and-Trade Framework. EP echoed many of these same concerns in its submission.[141] Union submits that, going forward, prudent incremental abatement opportunities should be pursued through the DSM Framework to avoid recreating the necessary rigour and oversight of the DSM Framework within Cap-and-Trade. Absent that rigour, there is no audit and verification process for abatement achievements within Cap-and-Trade. Therefore, Union would have no means of reliably assessing and reporting on the emissions abated by Cap-and-Trade abatement initiatives in future proceedings when it files to dispose of the associated costs of such programs in its deferral accounts. Similarly, the Board would not have an adequately robust basis on which to determine the prudence of expenditures on Cap-and-Trade abatement initiatives. Recreating or duplicating such a process for audit and verification within Cap-and-Trade would be inefficient and would lead to increased costs for ratepayers. This is not a realistic or prudent approach.

93. OEB Staff goes on to state, "*both Enbridge Gas and Union Gas are using GIF funding to achieve incremental GHG abatement by building on their residential DSM programs, and that a similar arrangement could be made to add new incentives and new participants to their Commercial and Industrial DSM programs.*"[142] OEB Staff's interpretation is incorrect. In fact, the DSM Framework addresses how to handle attribution for two situations: attribution with rate

[140] Tr. 2, pp. 173-74 [emphasis added].
[141] EP Submission, p. 8.
[142] OEB Staff Submission, pp. 23-24.

regulated entities and non-rate regulated entities.[143] For Union's GIF "arrangement" with the MOE, Union followed the non-rate regulated guideline. If Union were to combine DSM programs with Cap-and-Trade programs, Union would be making an "arrangement" with itself, because it would be delivering both sides and ratepayers would be funding both sides. Neither the DSM or Cap-and-Trade Frameworks provide a mechanism to allow for this to work.

J. Issue 1.10.1: Compliance Plan – *Union's RNG procurement and funding proposal is reasonable and appropriate*

94. As part of its 2018 Compliance Plan, Union requested approval of the RNG mechanism and associated cost consequences. In its Procedural Order No. 2, the Board determined that the RNG Procurement and Funding model ("RNG model") does not require approval as it provides that ratepayers will not be allocated any costs arising from the incremental costs of gas associated with the procurement of RNG.[144] As a result of the Board's direction, Union withdrew its request for relief from the Board in relation to RNG.[145]

95. OEB Staff submits that, based on the examples provided, ratepayers will not be required to pay any additional costs over and above the cost of gas and the cost of carbon related to RNG procurement.[146] BOMA submits that utility ratepayers would not be exposed to gas price risk as a result of Union's proposal.[147]

96. However, CME, CCC, EP, FRPO and LPMA all raised issues with Union's RNG Procurement and Funding model in their respective submissions.[148] Although the approval of the RNG Procurement and Funding model is no longer before the Board, Union addresses these comments here for completeness.

97. ***The RNG Procurement and Funding model does not expose ratepayers to material risks.*** CME submits that the RNG procurement and funding proposals are not reasonable and

[143] DSM Filing Guidelines, pp. 21–22.
[144] EB-2017-0255 Procedural Order No. 2 (dated February 7, 2018), p. 4.
[145] Tr. 1, p. 180.
[146] OEB Staff Submission, p. 35.
[147] BOMA Submission, p. 15.
[148] CME Submission, p. 2; CCC Submission, p. 8; EP Submission, p. 10; FRPO Submission, pp. 3-4; LPMA Submission, pp. 13-15.

appropriate, as they expose ratepayers to significant forecast risk, and could have unintended effects on rates given the significant uncertainty around the future cost of carbon.[149] CME further asserts that it is inappropriate to enter into contracts with such long durations while ratepayers fully bear the risk of any inaccurate forecast.[150] CCC and EP made similar claims that it was not clear that ratepayers would be held harmless under the RNG model,[151] and EP states that a deferral account should be set up to flow any RNG cost variances to the Province rather than to ratepayers.[152]

98. Union reiterates that its RNG model is designed to ensure that ratepayers are not exposed to any material cost differences beyond what they would bear for conventional natural gas in Ontario's Cap-and-Trade environment.[153] This is supported by the Board's direction provided in Procedural Order No. 2.[154] By fixing the forecast cost of gas and cost of carbon under the RNG model, this allows Union to calculate the fixed amount of government funding that is required for the duration of a prospective RNG contract in order to cover the premium RNG carries over conventional natural gas. This ensures that ratepayers are kept neutral on a forecast basis. As Ms. Newbury stated at the technical conference, *"…for each contract that we enter we will ensure that there is sufficient government funding set aside for the term of that contract to cover that cost, which is why we're proposing to have a fixed cost in the contract for the term."*[155] Further, at Exhibit B.Staff.6, Union emphasized the relative size of RNG compared to its overall gas supply portfolio, stating that, "*RNG procurement will make up a very small portion of its gas supply and Cap-and-Trade compliance plans. Therefore, the impact associated with actual prices for gas and/or carbon being higher or lower than what is forecast is expected to be immaterial.*" Fixing the forecast cost of gas for RNG will also contribute to rate predictability which is a guiding principle under both the Cap-and-Trade and Gas Supply Frameworks.

[149] CME Submission, p. 2.
[150] CME Submission, p. 3.
[151] CCC Submission, p. 8; EP Submission, pp. 2-3.
[152] EP Submission, pp. 2-3.
[153] Exhibit 3, Tab 4, p. 23.
[154] EB-2017-0255 Procedural Order No. 2 (dated February 7, 2018), p. 4.
[155] Technical Conference Tr. 1, pp. 55-56.

99. If the cost of gas and cost of carbon were allowed to vary under Union's RNG model, it would create a risk that adequate government funds may not be available to cover the RNG premium for the duration of the contract. This would expose ratepayers to greater risks of bearing costs in excess of traditional gas supply. Establishing a variance account for future recovery from the government, as EP suggests, is also not a workable solution, as only a fixed amount of funding is available to support this initiative, and there is no guarantee that this funding would be available in the future when this account were to be disposed of. This is particularly true in the case of a change in government. It is also unlikely that the government would be willing to be exposed to any future liability related to Union's RNG model.

100. Overall, the risk of forecast variances materializing over the duration of an RNG contract, the impacts of which are expected to be immaterial, do not outweigh the benefits to be derived by developing the RNG market in Ontario, such as reduced customer/facility emissions, ensuring Ontario's competitiveness and ensuring energy infrastructure remains used and useful.[156] Union's RNG Procurement and Funding model provides a means to achieve these benefits without exposing ratepayers to any material risk compared to that of procuring traditional gas supply.

101. ***RNG is an abatement opportunity that should be pursued at this time.*** FRPO submits that the LDCs choice of compliance instrument was influenced by the risk and reward to the company and that the emission neutrality of waste generated RNG is uncertain.[157]

102. Union is pursuing RNG, subject to the availability of government funding, because it is an abatement opportunity that can be achieved at no expected incremental cost to ratepayers. It is specifically referenced in the CCAP that the government plans to invest proceeds from the carbon market to "*help consumers with the cost of shifting to RNG, as it currently costs more than conventional natural gas.*"[158] It would not be in the best interest of Union's ratepayers to avoid pursuing such an abatement opportunity that has further market development benefits as set out above.

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[156] Exhibit 3, Tab 4, p. 23.
[157] FRPO Submission, pp. 3-4.
[158] Exhibit 3, Tab 4, p. 19.

103. Further, the emission neutrality of RNG is not at issue in this proceeding.[159] However, Union's response at Exhibit JT.1.24 outlines the additional publicly available information regarding the emission neutrality of RNG.

104. ***RNG is appropriately included as a customer abatement program.*** Finally, LPMA submits that while it does not object to the proposal to purchase RNG, the allocation of costs between different groups of customers result in an inequitable allocation of risks. Rather than considering the RNG program as a customer abatement program, LPMA submits that it should be considered a facility-related abatement program and the costs and risks allocated accordingly.[160]

105. Union addressed the allocation of RNG volumes to facility fuel requirements in its response at Exhibit JT1.23. Allocating the entire gas cost component of RNG to Union's fuel requirement will change the proportionate share of these costs borne by customers for which Union provides fuel compared to system sales customers. Allocating the entire carbon cost component of RNG to facility-related Cap-and-Trade rates would not be consistent with the Cap-and-Trade Framework. Union submits that treating RNG volumes, which would make up a very small percentage of its overall gas supply portfolio, like any other gas supply purchase results in the most equitable and balanced outcome for its ratepayers.

K. Issue 2: Monitoring and Reporting – *Union's monitoring and reporting processes are reasonable and appropriate*

106. In support of the OEB's Decision on Union's 2017 Compliance Plan,[161] Union provided partial-year monitoring and reporting for its 2017 activity as part of its application at Exhibit 4 and subsequently updated this information through various responses to interrogatories and undertakings for informational purposes only. The schedules provided by Union were developed collaboratively with EGD and are intended to be used as templates for the purpose of reporting partial year data for this proceeding and in support of the OEB's Working Group.

[159] CCAP, Section 6.1, p. 28, http://www.applications.ene.gov.on.ca/ccap/products/CCAP_ENGLISH.pdf.
[160] LPMA Submission, pp. 13 & 15.
[161] EB-2016-0296 OEB Decision and Order, pp. 27-31.

107. OEB Staff confirms that the monitoring reports filed by the Utilities are similar and allow the OEB to review and compare the results of their Compliance Plans as set out in the Framework.[162] OEB Staff also states that Union agreed to add an RNG line item to its activity report, and OEB Staff asks the OEB to approve this addition. [163] Union supports the addition of this line item to its Actual vs. Forecast Compliance Portfolio reporting template as requested by OEB Staff.[164]

108. BOMA argues that in future Compliance Plans the Utilities should be prepared to make the costs of allowances, offsets and abatement investments available.[165] Union is not at liberty to disclose the costs of allowances and offsets, disclosure of which is prohibited pursuant to the *Climate Change Act* and Section 4 of the OEB's Cap-and-Trade Framework, which guide its provision of Strictly Confidential information including the details and results of its procurement strategy. Union expects that the costs associated with any abatement initiatives pursued through the Cap-and-Trade Framework would be made public.

L. Issue 3: Customer Outreach – *Union's customer outreach processes and methods are reasonable and appropriate*

109. Union submits that its proposed approach to customer outreach is reasonable and appropriate and ensures that the OEB's four objectives are achieved in a clear and understandable manner.[166] Union has placed a strong emphasis on customer outreach and information, as these are essential to ensuring that customers fully understand: the provincial Cap-and-Trade program; the impact of the program on their bills; and how customers can manage their GHG emissions and resulting bill impacts.[167]

110. OEB Staff agrees that Union's 2018 customer outreach proposal is appropriate.[168]

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[162] OEB Staff Submission, p. 33.
[163] OEB Staff Submission, p. 33.
[164] Exhibit 4, Schedule 1.
[165] BOMA Submission, pp. 15-16.
[166] Framework, p. 35.
[167] Exhibit 5, p. 1.
[168] OEB Staff Submission, p. 33.

111. Union's customer outreach efforts leverage existing low-cost, mass-market communication vehicles in order to maximize education and minimize incremental costs. [169] LPMA submit that Union should absorb Cap-and-Trade customer outreach costs within its existing outreach programs and that they not be included in an account for recovery from ratepayers.[170] Although future customer outreach specific to Cap-and-Trade may require an additional incremental budget for this purpose, Union does not foresee a need in 2018 for incremental costs associated with customer outreach.

112. LIEN recommends that the Utilities align their customer outreach programs.[171] Prior to the Board's direction to develop consistent messaging between the Utilities, the Utilities worked together to ensure messaging was available to customers across their respective service areas.[172] As stated in Union's evidence, Union and EGD continue to align messages to achieve consistency.[173] Union expects to continue its collaboration with EGD. In particular, Union expects the OEB Working Group will provide an opportunity to contribute input and advice on the ongoing approach to customer outreach which Union expects will increase alignment across the Utilities.[174]

M. Issue 4: Deferral and Variance Accounts – *Union's deferral and variance accounts, balances and disposition methodologies are reasonable and appropriate*

113. Union had not yet incurred a full year of revenue and costs to determine deferral account balances for 2017 in any of its GGEIDA, Greenhouse Gas Emissions Compliance Obligation – Customer-Related or Facility-Related Deferral Accounts, by the time it filed its 2018 Compliance Plan application.[175] Therefore, Union is not seeking approval of the 2017 balances in these respective accounts.

[169] Exhibit 5, p. 7.
[170] LPMA Submission, pp. 15-16.
[171] LIEN Submission, p. 5.
[172] Exhibit B.SEC.15, p. 5.
[173] Exhibit 5, p. 9.
[174] Framework, p. 36.
[175] Exhibit 6, p. 2.

114. Union is requesting approval to dispose of the 2016 balance in its GGEIDA amounting to a debit from ratepayers of $2.232 million.[176] This balance is comprised of administrative costs incurred related to the implementation of Union's Cap-and-Trade program. In accordance with the Framework, Union is proposing to allocate the 2016 GGEIDA balance to rate classes in proportion to Union's 2013 OEB-approved Administrative and General O&M expense.[177] Union submits that this balance is not significant enough to warrant deviation from the Framework regarding the manner in which to allocate costs. Union also proposes to dispose of the approved 2016 GGEIDA balance consistent with the disposition methodology and timing of the 2017 non-commodity deferral account balances in order to reduce the number of rate changes for customers and for administrative ease.[178]

115. OEB Staff, BOMA and CME all supported or took no issue with Union's request for approval to dispose of the balance in its 2016 GGEIDA.[179] SEC takes no issue with the reasonableness of the balance of Union's 2016 GGEIDA.[180]

116. LPMA submits that Union's proposal to allocate the balance in its 2016 GGEIDA is appropriate and agrees with Union that the disposal of the 2016 GGEIDA balance should be in conjunction with the disposition of the 2017 non-commodity deferral account balances.[181]

117. However, CCC, LPMA and SEC argue that the Board should deny recovery for Union as the deferral amount is below the Z factor materiality threshold of $4.0 million as set out in its IRM plan.[182] Union disagrees with intervenors and points to the Framework, which was developed by the OEB subsequent to Union's IRM plan, for support that these costs were intended to be a direct pass-through to ratepayers:

[176] Exhibit 6, p. 3.
[177] Exhibit B. Staff. 34 a); Exhibit JT1.30; Exhibit B.APPrO.10.
[178] Exhibit 7, Tab 2, p. 2.
[179] OEB Staff Submission, p. 37; BOMA Submission, p. 17; CME Submission, p. 1.
[180] SEC Submission, p. 2.
[181] LPMA Submission, p. 20.
[182] CCC Submission, p. 5; LPMA Submission, p. 17; SEC Submission, p. 2.

- One of the guiding principles of the Framework, Cost Recovery, states that *"prudently incurred costs related to cap and trade activities* ***are recovered from customers as a cost pass-through.*** *"*[183]

- The Framework goes on to state, *"The OEB has determined that administrative costs relating to the implementation and ongoing operation of the Cap and Trade program will be* ***allocated and recovered from all customers in the same manner as existing administrative costs****."*[184]

- While intervenors argue that Union should be treated differently in this regard than EGD as a result of its unique IRM plan, the Framework which was subsequently approved by the OEB states, *"The OEB is of the view that* ***all rate-regulated natural gas utilities should be treated in the same way and as such the Regulatory Framework does not provide for any difference in treatment between the Utilities****."*[185]

118. The Framework directs that all prudently incurred Cap-and-Trade related costs be recovered as a cost pass-through. Union's IRM plan defines pass-through items as Y factors. LPMA submits that these costs do not qualify as a Y factor since they were not specifically identified in Union's IRM Settlement Agreement.[186] Union agrees that Cap-and-Trade related costs were not contemplated in Union's IRM plan. However, the Board, through its Framework, has determined that Cap-and-Trade related costs are eligible for recovery by Union as a cost pass-through. Union submits Cap-and-Trade costs should be treated consistent with other pass-through costs as defined in Union's IRM plan. Union's IRM plan defines Y factors as costs that: (1) are associated with specific items that are subject to deferral account treatment; (2) are passed through to customers; and (3) are not subject to escalation. Y factors do not have a defined materiality threshold and are separate and distinct from Z factors. Therefore, it is unreasonable and inappropriate to deny Union's request for disposition of the 2016 GGEIDA balances on the grounds of materiality put forward by intervenors.

119. APPrO and LPMA argue that the OEB should benchmark staffing-related costs for Union relative to EGD.[187] As explained in paragraphs 20-22, while the Utilities operate under the same

[183] Framework, p. 7 [emphasis added].
[184] Framework, p. 30 [emphasis added].
[185] Framework, p. 8 [emphasis added].
[186] LPMA Submission, p. 17.
[187] APPrO Submission, pp. 3, 15-16; LPMA Submission, pp. 18-19.

Framework, it is not appropriate to benchmark their Cap-and-Trade activities against each other as they have continued to operate as separate legal entities under different incentive regulation models throughout the development and execution of their respective Cap-and-Trade programs. Expecting two unrelated entities to approach Cap-and-Trade implementation in the exact same manner is not a realistic. Further, no reason for doubt has been raised regarding the prudence of Union's implementation approach and strategy. Therefore, denying Union's request for recovery of 2016 GGEIDA balances on the basis that they differ from EGD's is not reasonable.

120. As Union described in its pre-filed evidence,

> *To understand the nature of the requirements of Cap-and-Trade in 2016 and the resulting costs, it is important to review the context in which the program was introduced and implemented. […] [T]he Cap-and-Trade program is new to Ontario, to the natural gas utilities and, to customers. In addition, the Cap-and-Trade program was implemented in Ontario more quickly than any other jurisdiction, including California and Québec.*[188] […]

> *As the second largest participant in the Ontario Cap-and-Trade program, and the natural gas utility for more than 1.4 million customers in over 400 communities across the province, it was critical that Union dedicate sufficient resources in order to implement the program effectively, efficiently and on time. The consequence of not meeting the compliance obligations of the Cap-and-Trade program is very high, including penalties for non-compliance.*[189]

121. Leading up to implementation of Cap-and-Trade effective January 1, 2017, Union incurred the costs it deemed necessary to ensure a successful implementation, including adding incremental staff who would dedicate more than 25% of their time to Cap-and-Trade activities.[190] Union asserts that its successful implementation and overall performance under Cap-and-Trade to date clearly support that the 2016 costs incurred by Union leading up to implementation were reasonable and justified.

[188] Exhibit 6, p. 3

[189] Exhibit 6, p. 5.

[190] Exhibit 6, p. 7.

122. IGUA takes the position that cost causality would be better reflected if administrative costs were allocated in accordance with Cap-and-Trade benefits.[191] As noted in paragraph 117, the Framework specifies that administrative costs relating to the implementation and ongoing operation of the Cap-and-Trade program should be allocated and recovered from all customers in the same manner as existing administrative costs. Union's proposed allocation of costs complies with the Board's direction. Further, as set out in the Framework,

> *The OEB agrees that administrative costs will be incurred to support both facility-related and customer-related obligations. Based on the expectation that the costs will not likely be material, introducing a new approach to cost allocation would not be warranted*.[192]

123. APPrO and BOMA argue that the Board should direct Union to move to recovering deferral account balances prospectively.[193] Union's proposal to dispose of Cap-and-Trade deferral and variance account balances as a one-time adjustment to contract rate customers is in accordance with current practice and approved methodologies to dispose of non-commodity deferral accounts. Union is currently not able to administer prospective recovery from ex-franchise customers and submits that prospective disposition of account balances for contract rate customers is not reasonable, because it:

- is inconsistent with OEB approved methodologies;[194]
- results in forecast variances;[195]
- would require a significant system upgrade to Union's billing system, incremental costs and an implementation time of up to one year;[196] and

[191] IGUA Submission (Revised), p. 4.
[192] Framework, p. 31.
[193] APPrO Submission, pp. 3 & 17; BOMA Submission, p. 17.
[194] Exhibit JT1.18.
[195] Exhibit B.APPrO.10.
[196] Exhibit JT1.18.

- could cause material mismatch between cost incurrence and cost recovery due to customer switching between rate classes and changes in customer consumption from year-to-year.[197]

124. LIEN recommends that the Utilities apply their deferral account balances over the warmest six months of the year to mitigate the impact on low-income customers' bills.[198] Notwithstanding Union's argument regarding the appropriateness of its proposed disposition methodology above, Union submits that the "impact" on low-income customers' bills is similar regardless of the timing of disposition. Assuming that LIEN was referring to offering flexibility to assist customers in managing their bills, Union provides its customers with the option of an Equal Billing Plan which bills customers in even monthly instalments, providing a predictable monthly bill regardless of rate changes or deferral disposition timing. Union submits that further delaying disposition until the warmest months of the year will create a longer time lag between cost incurrence and disposition and add interest costs. For these reasons it is not reasonable or appropriate for Union to delay disposition as suggested.

125. As set out above, consistent with the approval granted in EB-2016-0296, Union is requesting a determination from the Board that the cost consequences of its 2018 Compliance Plan are just and reasonable, including $3.7 million in forecasted 2018 administrative costs and up to $2.0 million in cost consequences associated with the LCIF in Union's GGEIDA. Union expects that the actual 2018 cost consequences associated with Union's GGEIDA will be subject to a final prudence review by the Board as part of a future proceeding when Union applies to dispose of the resulting 2018 balance in its GGEIDA to determine: (a) whether the costs sought to be recovered are the consequence of the approved plan, and (b) whether there were any change in circumstances that rendered compliance with the approved plan unreasonable.[199] Union will propose a disposition methodology for the 2018 deferral account balances at the time the deferral balances are proposed for disposition.

[197] Exhibit B.APPrO.10.
[198] LIEN Submission, p. 8.
[199] Exhibit J1.2.

N. Issue 5: Cost Recovery – *Union's manner to recover costs is reasonable and appropriate, and the tariffs are just and reasonable*

126. Cost recovery and cost effectiveness are two of the Cap-and-Trade Framework's guiding principles.[200] Since the focus of the 2018 Compliance Plan is on compliance and prudence, all costs/risks are expected to be passed-through to customers.

127. In its Decision and Order dated November 30, 2017 the OEB directed that the final 2017 OEB-approved Cap-and-Trade charges should continue until such time as the OEB completes its review and makes a determination of the approved 2018 Cap-and-Trade charges. Accordingly, Union will prepare a final rate order following the Board's decision in this proceeding.

O. Issue 6: Implementation – *Union's implementation date and manner of implementing final rates is reasonable and appropriate*

128. LIEN submits that the increased cost to Union's customers warrants the implementation of measures to pace and prioritize impacts on Low-Income customers.[201] Union does not agree with LIEN. The incremental impact of the 2018 Compliance Plan is not 10%, it is less than 1%.[202] Further, as noted in Union's Conditions of Service, Union maintains a Low-Income Customer Services Policies Program to assist with the impact of bills for its Low-Income customers including: an Equal Billing Plan; security deposit waiver; waiver of late payment charges; and emergency financial assistance.[203] For these reasons Union submits that the bill impact of Union's 2018 Compliance Plan does not warrant implementation of measures to pace and prioritize impacts on Low-Income customers.

129. OEB Staff and BOMA support Union's proposal for the implementation of final rates as part of the next available QRAM application that follows the OEB Decision and final rate order in this proceeding, with any differences between the amounts recovered in rates since January 1,

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[200] Framework, pp. 7-8.

[201] LIEN Submission, p. 7.

[202] An M1 customer is forecasted to pay $5.27 CAD more per year as a result of Union's 2018 Compliance Plan which represents an increase of 0.7% over their current forecasted total bill. See Exhibit 7, Tab 1, Schedule 2, p. 1 for additional detail.

[203] https://www.uniongas.com/-/media/about-us/policies/conditions-of-service-july2018.pdf?la=en&hash=84C8D13256B46F85E11195AECDD5E09FBC2874A5

2018, and the implementation of final 2018 rates being captured in the 2018 customer- and facility-related variance accounts.[204]

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130. Union therefore respectfully requests that the relief it seeks in this application be granted.

All of which is respectfully submitted this 14th day of June, 2018

Original signed by Myriam Seers

Torys LLP
Lawyers for Union Gas Limited

[204] OEB Staff Submission, p. 39; BOMA Submission, pp. 18-19.